

#56D
3/20/18

(O-2018-83)

ORDINANCE NUMBER O- 20920 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 22 2018

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0402 AND 126.0404; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 2 BY AMENDING SECTION 143.0210 AND ADDING NEW SECTION 143.0240; AND AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTIONS 143.0302 AND 143.0360, RELATING TO DEVELOPMENT INCENTIVES FOR HISTORIC PRESERVATION, PROPOSED AS PART OF THE 11TH UPDATE TO THE LAND DEVELOPMENT CODE.

WHEREAS, in 2016, during the public hearing process for the North Park, Golden Hill, and Uptown Community Plan Updates, historic preservationists and members of the development community expressed interest in new development incentives to encourage preservation and continued use or adaptive reuse of designated historical resources; and

WHEREAS, in an effort to provide regulatory relief and incentivize the preservation of designated historical resources, historical districts, important archaeology sites, and traditional cultural properties, amendments to the Land Development Code are proposed to facilitate on-site preservation and continued use or adaptive reuse in a manner consistent with the U.S. Secretary of Interior's Standards (Standards); and

WHEREAS, the proposed amendments include incentives that allow historic preservation development to exclude the gross floor area of designated historical resources from parking calculations and floor area ratio limits, and allow one deviation from the base zone development regulations for a single family development with a construction permit. In addition, the incentives would allow two or more deviations from base zone development regulations for single family development, and allow one or more deviations from base zone development regulations for non-single family development with a Neighborhood Development Permit. The

proposed amendments allow for the historic preservation development incentives so long as the proposed development meets certain exemption criteria set forth in San Diego Municipal Code Section 143.0220, is consistent with the Standards, and completely avoids impacting a historical resource for important archaeology sites and traditional cultural properties; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 12, Article 6, Division 4 of the San Diego Municipal Code is amended by amending sections 126.0402 and 126.0404, to read as follows:

§126.0402 When a Neighborhood Development Permit Is Required

(a) through (o) [No change in text.]

(p) A Neighborhood Development Permit is required for *development* on a site that contains a *designated historical resource, traditional cultural property, important archaeological site*, or a designated contributing resource to a *historical district* and includes a specific historic preservation *development* incentive as described in Section 143.0240.

§126.0404 Findings for Neighborhood Development Permit Approval

A Neighborhood Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0404(a) and the supplemental *findings* in Section 126.0404(b) through (h) that are applicable to the proposed *development* as specified in this section.

These *findings* are not required for affordable housing that is provided pursuant to Chapter 14, Article 3, Division 7, unless the *development* will exceed the allowed incentives.

(a) through (g) [No change in text.]

(h) Supplemental Findings -- *Development* Incentives for Preservation of Designated Historical Resources, Historical Districts, Traditional Cultural Properties and Important Archaeological Sites

A Neighborhood Development Permit required because a historic preservation *development* incentive is included in accordance with Section 143.0240 may be approved or conditionally approved only if the decision maker makes the *findings* in Section 126.0404(a) and at least one of the following supplemental *findings*:

- (1) The proposed *development* contains a *traditional cultural property* or *important archaeological site*, and the historic preservation *development* incentive is necessary to avoid impacts to the resource; or
- (2) The proposed *development* contains a *designated historical resource* or a contributing resource to a designated *historical district* and the historic preservation *development* incentive is required to comply with the U.S. Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.

Section 2. That Chapter 14, Article 3, Division 2 of the San Diego Municipal Code is amended by amending section 143.0210 and adding new section 143.0240, to read as follows:

§143.0210 When Historical Resources Regulations Apply

- (a) through (c) [No change in text.]
- (d) A *construction permit* is required for any *development* on a *premises* that has a *historical resources* on the site that will not adversely affect the

historical resource and is consistent with one or more of the exemption criteria in accordance with Section 143.0220.

- (e) A Neighborhood Development Permit or Site Development Permit is required for the following types of *development* proposals that do not qualify for an exemption in accordance with Section 143.0220:
 - (1) Neighborhood Development Permit in accordance with Process Two. *Single dwelling unit residential development* on a *single dwelling unit lot* of any size when a *traditional cultural property* or *important archaeological site* is present.
 - (2) through (4) [No change in text.]
- (f) When a *development* proposal on a site containing a *designated historical resource*, *traditional cultural property*, *important archaeological site*, or a designated contributing resource to a *historical district* qualifies for an exemption in accordance with Section 143.0220, and includes a historic preservation *development* incentive in accordance with Section 143.0240, a *construction permit* or Neighborhood Development Permit is required depending upon the incentive requested, as detailed in Section 143.0240.

**Table 143-02A
Applicability of Historical Resources Regulations**

| Type of Development Proposal | Historical Resources Potentially Impacted by Project | | | |
|---|--|---|---|---|
| | <i>Designated Historical Resources or Historical Districts</i> | <i>Traditional Cultural Properties</i> | <i>Important Archaeological Sites</i> | |
| 1. [No change in text.] | | [No change in text.] | | |
| 2. <i>Development on single dwelling units on any size lot that is exempt from obtaining a development permit in accordance with Section 143.0220, but includes a historic preservation development incentive in accordance with Section 143.0240</i> | R | 143.0240; 143.0251 | 143.0240; 143.0251 | 143.0240; 143.0251 |
| | P | Construction Permit/Process One or NDP/Process Two ¹ | Construction Permit/Process One or NDP/Process Two ¹ | Construction Permit/Process One or NDP/Process Two ¹ |
| 3. <i>Development on multiple dwelling units, non-residential development, subdivisions and public works construction projects on any size lot, other than capital improvement program projects, that is exempt from obtaining a development permit in accordance with Section 143.0220, but includes a historic preservation development incentive in accordance with Section 143.0240</i> | R | 143.0240; 143.0251 | 143.0240; 143.0251 | 143.0240; 143.0251 |
| | P | Construction Permit/Process One or NDP/Process Two ¹ | Construction Permit/Process One or NDP/Process Two ¹ | Construction Permit/Process One or NDP/Process Two ¹ |
| 4. <i>Single dwelling units on any size lot</i> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/Process Four | NDP/Process Two | NDP/Process Two |
| 5. <i>Multiple dwelling unit, non-residential development, subdivisions and public works construction projects on any size Lot, other than capital improvement program projects</i> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/Process Four | SDP/Process Four | SDP/Process Four |
| 6. <i>Project-Specific Land Use Plans</i> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/Process Four | SDP/Process Four | SDP/Process Four |
| 7. <i>Development, other than capital improvement program projects, that deviates from any of the regulations in this division.</i> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/Process Four | SDP/Process Four | SDP/Process Four |

| | | | | |
|--|---|-----------------------------|------------------------------|------------------------------|
| 8. <i>Capital improvement program projects that comply with the regulations of this division without deviation</i> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/ Process CIP-Two | SDP/ Process CIP- Two | SDP/ Process CIP- Two |
| 9. <i>Capital improvement program projects that deviate from any of the regulations in this division</i> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/ Process CIP-Five | SDP/ Process CIP- Five | SDP/ Process CIP- Five |

Footnotes for Table 143-02A

¹ The Process level is determined by the historic preservation *development* incentive requested in accordance with Section 143.0240.

Legend to Table 143-02A

[No change in text.]

§143.0240 Development Incentives for Preservation of Designated Historical Resources, Historical Districts, Traditional Cultural Properties and Important Archaeological Sites

To facilitate on-site preservation of *designated historical resources, historical districts, traditional cultural properties, and important archaeological sites*, and the continued use or adaptive reuse of *designated historical resources* in a manner consistent with the U.S. Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, the following historic preservation *development* incentives may be granted, provided that the *development* qualifies for an exemption under Section 143.0220:

- (a) The historic *gross floor area* of a *designated historical resource* may be excluded from the parking calculation for the *premises* with the approval of a *construction permit*.

- (b) On *single dwelling unit* sites that contain *designated historical resources, traditional cultural properties, important archaeological sites*, or a designated contributing resource to a *historical district*, the following historic preservation *development* incentives are provided in accordance with the approval processes indicated:
- (1) A deviation from one of the base zone development regulations, excluding *density* and *floor area ratio*, may be granted with the approval of a *construction permit*.
 - (2) A deviation from two or more of the base zone development regulations, excluding *density* and *floor area ratio*, may be granted with the approval of a Neighborhood Development Permit.
 - (3) For the purpose of this subsection, a deviation from one of the base zone development regulations shall refer to the entire development regulation category identified in bold in the *development* regulation table of the applicable base zone. For example, a deviation from both side and rear *yard setback* requirements would be a deviation from one base zone development regulation (*setback* requirements).
- (c) For *multiple dwelling unit* sites, non-residential *development, subdivisions*, and public works construction projects on any size *lot*, other than *capital improvement program projects*, that contain *designated historical resources, traditional cultural properties, important archaeological sites*, or a designated contributing resource to a *historical district*, the following

development incentives are provided in accordance with the approval processes indicated:

- (1) The historic *gross floor area* of a *designated historical resource* may be excluded from the *floor area ratio* with the approval of a *construction permit*.
- (2) A deviation from one or more of the base zone development regulations may be granted with the approval of a Neighborhood Development Permit.
- (3) For the purpose of this subsection, a deviation from one of the base zone development regulations shall refer to the entire development regulation category identified in bold in the development regulation table of the applicable base zone. For example, a deviation from both side and rear *yard setback* requirements would be a deviation from one base zone development regulation (*setback requirements*).
- (d) A deviation from allowed uses or the requirements of Overlay Zones, *environmentally sensitive lands* regulations, *historical resources* regulations, building regulations, or similar regulations shall not be permitted as part of a historic preservation *development* incentive.
- (e) A historic preservation *development* incentive processed with a *construction permit* may be denied if the City makes a written *finding* of denial based upon substantial evidence of any of the following:
 - (1) The incentive is not required in order to avoid impacts to a *traditional cultural property* or *important archaeological site*, or to

comply with the U.S. Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties;

- (2) The incentive would have a specific adverse impact upon public health and safety as defined in California Government Code Section 65589.5;
 - (3) The incentive would be contrary to state or federal law. Requested incentives shall be analyzed in compliance with the California Environmental Quality Act as set forth in Chapter 12, Article 8, and no incentive shall be granted without such compliance; or
 - (4) Within the Coastal Overlay Zone, the incentive would be inconsistent with the resource protection standards of the City's Local Coastal Program or the *environmentally sensitive lands* regulations, with the exception of *density*.
- (f) If *development* is proposed for a site which has previously been granted and has implemented a historic preservation *development* incentive, and the proposed *development* is not exempt in accordance with Section 143.0220 due to a substantial alteration, relocation, or demolition of the *designated historical resource, traditional cultural property, or important archaeological site*, the proposed *development* may not be approved unless:
- (1) The proposed *development* includes the removal of the historic preservation *development* incentive and the *premises* is brought into compliance with the Land Development Code as it relates to the *development* incentive; or

- (2) The proposed *development* includes complete demolition and removal of all buildings on the *premises*.

Section 3. That Chapter 14, Article 3, Division 3 of the San Diego Municipal Code is amended by amending sections 143.0302 and 143.0360, to read as follows:

§143.0302 When Supplemental Neighborhood Development Permit and Site Development Permit Regulations Apply

This Division applies to any *development* proposal for which a Neighborhood Development Permit or Site Development Permit is required as described in Sections 126.0402 and 126.0502, in accordance with Table 143-03A.

Legend for Table 143-03A

| | |
|-----|---------------------------------|
| NDP | Neighborhood Development Permit |
| SDP | Site Development Permit |

**Table 143-03A
Supplemental Neighborhood Development Permit or Site Development Permit
Regulations Applicability**

| Type of <i>Development</i> Proposal | Applicable Sections | Required <i>Development</i> Permit/Decision Process |
|---|--|--|
| Affordable housing, in-fill projects, and sustainable buildings projects with deviations through Any <i>capital improvement program project</i> on a Site Containing <i>Historical Resources</i> . [No change in text.] | [No change in text.] | [No change in text.] |
| Site Containing <i>Historical Resources</i> | 143.0201, 143.0240, 143.0260, 143.0303, 143.0305, 143.0360, 143.0375, 143.0380 | NDP/Process Two or SDP/Process Four |

| Type of Development Proposal | Applicable Sections | Required Development Permit/Decision Process |
|--|----------------------------|---|
| <i>Fences or Retaining Walls Exceeding the Permitted Height through Clairemont Mesa Height Limit Overlay Zone</i> [No change in text.] | [No change in text.] | |

§143.0360 Supplemental Neighborhood Development Permit and Site Development Permit Regulations for Historical Resources

The following regulations apply to Neighborhood Development Permits and Site Development Permits required because of potential impacts to *historical resources* in addition to other indicated supplemental regulations.

- (a) For *development* on sites containing *traditional cultural properties* or *important archaeological sites*, a deviation from one or more of the development regulations of the base zone may be approved to reduce impacts to the resource, subject to the regulations in Section 126.0404.
- (b) For sites that receive a relocated *designated historical resource* through a Site Development Permit in accordance with Sections 126.0505(h), 143.0210, and 143.0250, a deviation from one or more of the development regulations of the base zone may be approved in order to accommodate the *designated historical resource* on the new site in a manner consistent with the U.S. Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, subject to the regulations in Section 126.0504.

- (c) For *development* proposing substantial alteration (other than relocation) or demolition of a *designated historical resource*, deviations from the development regulations of the base zone may not be approved under Section 143.0240.

Section 4. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 5. That prior to becoming effective, this Ordinance shall be submitted to the San Diego County Regional Airport Authority (SDCRAA) for a consistency determination.

That if the SDCRAA finds this Ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport, Marine Corps Air Station (MCAS) Miramar, Gillespie Field, Montgomery Field, and Brown Field Airports (collectively, Airports), this Ordinance shall take effect and be in force on the thirtieth day from and after the finding of consistency, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

That if the SDCRAA determines that this Ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCPs for the Airports, the Ordinance shall be submitted to the City Council for reconsideration.

That if the SDCRAA determines that this Ordinance is conditionally consistent with the ALUCPs for the Airports, but that consistency is subject to proposed modifications, the City Council may amend this Ordinance to accept the proposed modifications, and this Ordinance as amended shall take effect and be in force on the thirtieth day from and after its final passage,


except that the provisions of this Ordinance as amended inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

That a proposed decision by the City Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings shall be forwarded to the SDCRAA, the California Department of Transportation, Division of Aeronautics, and the airport operators for the Airports. The City Council shall hold a second hearing not less than 45 days from the date the proposed decision and findings were provided, at which hearing any comments submitted by the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote.

That if the City Council makes a final decision to overrule a determination of inconsistency, this Ordinance shall take effect and be in force on the thirtieth day from and after that final decision, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 6. That no permits shall be issued for development that is inconsistent with the provisions of this Ordinance unless complete applications for such permits are submitted to the City prior to the date on which the applicable provisions of this Ordinance become effective, which date is determined in accordance with Section 5, above.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Corrine L. Neuffer
Deputy City Attorney

CLN:als
02/15/2018
Or.Dept: Planning
Doc. No.: 1623512_3

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAR 20 2018.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 3/22/18
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0402 AND 126.0404; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 2 BY AMENDING SECTION 143.0210 AND ADDING NEW SECTION 143.0240; AND AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTIONS 143.0302 AND 143.0360, RELATING TO DEVELOPMENT INCENTIVES FOR HISTORIC PRESERVATION, PROPOSED AS PART OF THE 11TH UPDATE TO THE LAND DEVELOPMENT CODE.

§126.0402 When a Neighborhood Development Permit Is Required

(a) through (o) [No change in text.]

(p) A Neighborhood Development Permit is required for *development that provides affordable housing, in-fill projects, and/or sustainable buildings as described in Sections 126.0503, 126.0603, or 143.0915, where a Site Development Permit or Planned Development Permit would otherwise be required on a site that contains a designated historical resource, traditional cultural property, important archaeological site, or a designated contributing resource to a historical district and includes a specific historic preservation development incentive as described in Section 143.0240.*

§126.0404 Findings for Neighborhood Development Permit Approval

A Neighborhood Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section

126.0404(a) and the supplemental *findings* in Section 126.0404(b) through (gh) that are applicable to the proposed *development* as specified in this section.

These *findings* are not required for affordable housing that is provided pursuant to Chapter 14, Article 3, Division 7, unless the *development* will exceed the allowed incentives.

(a) through (g) [No change in text.]

(h) Supplemental Findings -- Development Incentives for Preservation of Designated Historical Resources, Historical Districts, Traditional Cultural Properties and Important Archaeological Sites
A Neighborhood Development Permit required because a historic preservation development incentive is included in accordance with Section 143.0240 may be approved or conditionally approved only if the decision maker makes the findings in Section 126.0404(a) and at least one of the following supplemental findings:

- (1) The proposed development contains a traditional cultural property or important archaeological site, and the historic preservation development incentive is necessary to avoid impacts to the resource; or
- (2) The proposed development contains a designated historical resource or a contributing resource to a designated historical district and the historic preservation development incentive is required to comply with the U.S. Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.

§143.0210 When Historical Resources Regulations Apply

(a) through (c) [No change in text.]

(d) A ~~Construction Permit~~ construction permit is required for any *development on a premises* that has a historical resources on the site that will not adversely affect the *historical resources* and is consistent with one or more of the exemption criteria in accordance with Section 143.0220.

(e) A Neighborhood Development Permit or Site Development Permit is required for the following types of *development* proposals that do not qualify for an exemption in accordance with Section 143.0220:

(1) Neighborhood Development Permit in accordance with Process Two. *Single dwelling unit residential development on a single dwelling unit lot* of any size when a *traditional cultural property* or *important archaeological site* is present.

(2) through (4) [No change in text.]

(f) When a development proposal on a site containing a designated historical resource, traditional cultural property, important archaeological site, or a designated contributing resource to a historical district qualifies for an exemption in accordance with Section 143.0220, and includes a historic preservation development incentive in accordance with Section 143.0240, a construction permit or Neighborhood Development Permit is required depending upon the incentive requested, as detailed in Section 143.0240.

**Table 143-02A
Applicability of Historical Resources Regulations**

| Type of Development Proposal | Historical Resources Potentially Impacted by Project | | | |
|---|--|---|---|---|
| | <i>Designated Historical Resources or Historical Districts</i> | <i>Traditional Cultural Properties</i> | <i>Important Archaeological Sites</i> | |
| 1. [No change in text.] | | [No change in text.] | | |
| 2. <u>Development on single dwelling units on any size lot that is exempt from obtaining a development permit in accordance with Section 143.0220, but includes a historic preservation development incentive in accordance with Section 143.0240</u> | R | <u>143.0240;</u> <u>143.0251</u> | <u>143.0240;</u> <u>143.0251</u> | <u>143.0240;</u> <u>143.0251</u> |
| | P | <u>Construction Permit/Process</u> <u>One or</u> <u>NDP/Process</u> <u>Two¹</u> | <u>Construction Permit/Process</u> <u>One or</u> <u>NDP/Process</u> <u>Two¹</u> | <u>Construction Permit/Process</u> <u>One or</u> <u>NDP/Process</u> <u>Two¹</u> |
| 3. <u>Development on multiple dwelling units, non-residential development, subdivisions and public works construction projects on any size lot, other than capital improvement program projects, that is exempt from obtaining a development permit in accordance with Section 143.0220, but includes a historic preservation development incentive in accordance with Section 143.0240</u> | R | <u>143.0240;</u> <u>143.0251</u> | <u>143.0240;</u> <u>143.0251</u> | <u>143.0240;</u> <u>143.0251</u> |
| | P | <u>Construction Permit/Process</u> <u>One or</u> <u>NDP/Process</u> <u>Two¹</u> | <u>Construction Permit/Process</u> <u>One or</u> <u>NDP/Process</u> <u>Two¹</u> | <u>Construction Permit/Process</u> <u>One or</u> <u>NDP/Process</u> <u>Two¹</u> |
| 24. <u>Single dwelling units on any size lot</u> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/Process Four | NDP/Process Two | NDP/Process Two |
| 35. <u>Multiple dwelling unit, non-residential development, subdivisions and public works construction projects on any size Lot, other than capital improvement program projects</u> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/Process Four | SDP/Process Four | SDP/Process Four |
| 46. <u>Project-Specific Land Use Plans</u> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/Process Four | SDP/Process Four | SDP/Process Four |
| 57. <u>Development, other than capital improvement program projects, that deviates from any of the regulations in this division.</u> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/Process Four | SDP/Process Four | SDP/Process Four |

| | | | | |
|---|---|-----------------------------|------------------------------|------------------------------|
| 68. <i>Capital improvement program projects that comply with the regulations of this division without deviation</i> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/ Process CIP-Two | SDP/ Process CIP- Two | SDP/ Process CIP- Two |
| 79. <i>Capital improvement program projects that deviate from any of the regulations in this division</i> | R | 143.0251 | 143.0252 | 143.0253 |
| | P | SDP/ Process CIP-Five | SDP/ Process CIP- Five | SDP/ Process CIP- Five |

Footnotes for Table 143-02A

¹ The Process level is determined by the historic preservation *development* incentive requested in accordance with Section 143.0240.

Legend to Table 143-02A

[No change in text.]

§143.0240 Development Incentives for Preservation of Designated Historical Resources, Historical Districts, Traditional Cultural Properties and Important Archaeological Sites

To facilitate on-site preservation of *designated historical resources, historical districts, traditional cultural properties, and important archaeological sites, and the continued use or adaptive reuse of designated historical resources in a manner consistent with the U.S. Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, the following historic preservation development incentives may be granted, provided that the development qualifies for an exemption under Section 143.0220:*

- (a) The historic *gross floor area* of a *designated historical resource* may be excluded from the parking calculation for the *premises* with the approval of a *construction permit*.

- (b) On single dwelling unit sites that contain *designated historical resources, traditional cultural properties, important archaeological sites, or a designated contributing resource to a historical district, the following historic preservation development incentives are provided in accordance with the approval processes indicated:*
- (1) A deviation from one of the base zone development regulations, excluding *density and floor area ratio*, may be granted with the approval of a *construction permit*.
 - (2) A deviation from two or more of the base zone development regulations, excluding *density and floor area ratio*, may be granted with the approval of a *Neighborhood Development Permit*.
 - (3) For the purpose of this subsection, a deviation from one of the base zone development regulations shall refer to the entire development regulation category identified in bold in the development regulation table of the applicable base zone. For example, a deviation from both side and rear *yard setback* requirements would be a deviation from one base zone development regulation (*setback requirements*).
- (c) For *multiple dwelling unit sites, non-residential development, subdivisions, and public works construction projects on any size lot, other than capital improvement program projects, that contain *designated historical resources, traditional cultural properties, important archaeological sites, or a designated contributing resource to a historical district, the following**

development incentives are provided in accordance with the approval processes indicated:

- (1) The historic *gross floor area* of a *designated historical resource* may be excluded from the *floor area ratio* with the approval of a *construction permit*.
- (2) A deviation from one or more of the base zone development regulations may be granted with the approval of a Neighborhood Development Permit.
- (3) For the purpose of this subsection, a deviation from one of the base zone development regulations shall refer to the entire development regulation category identified in bold in the development regulation table of the applicable base zone. For example, a deviation from both side and rear *yard setback* requirements would be a deviation from one base zone development regulation (*setback requirements*).
- (d) A deviation from allowed uses or the requirements of Overlay Zones, *environmentally sensitive lands* regulations, *historical resources* regulations, building regulations, or similar regulations shall not be permitted as part of a historic preservation *development* incentive.
- (e) A historic preservation *development* incentive processed with a *construction permit* may be denied if the City makes a written *finding of denial based upon substantial evidence of any of the following*:
 - (1) The incentive is not required in order to avoid impacts to a *traditional cultural property* or *important archaeological site*, or to

comply with the U.S. Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties;

(2) The incentive would have a specific adverse impact upon public health and safety as defined in California Government Code Section 65589.5;

(3) The incentive would be contrary to state or federal law. Requested incentives shall be analyzed in compliance with the California Environmental Quality Act as set forth in Chapter 12, Article 8, and no incentive shall be granted without such compliance; or

(4) Within the Coastal Overlay Zone, the incentive would be inconsistent with the resource protection standards of the City's Local Coastal Program or the *environmentally sensitive lands* regulations, with the exception of *density*.

(f) If *development* is proposed for a site which has previously been granted and has implemented a historic preservation *development* incentive, and the proposed *development* is not exempt in accordance with Section 143.0220 due to a substantial alteration, relocation, or demolition of the *designated historical resource, traditional cultural property, or important archaeological site*, the proposed *development* may not be approved unless:

(1) The proposed *development* includes the removal of the historic preservation *development* incentive and the *premises* is brought into compliance with the Land Development Code as it relates to the *development* incentive; or

- (2) The proposed *development* includes complete demolition and removal of all buildings on the *premises*.

§143.0302 When Supplemental Neighborhood Development Permit and Site Development Permit Regulations Apply

This Division applies to any *development* proposal for which a Neighborhood Development Permit or Site Development Permit is required as described in Sections 126.0402 and 126.0502, in accordance with Table 143-03A.

Legend for Table 143-03A

| | |
|-----|---------------------------------|
| NDP | Neighborhood Development Permit |
| SDP | Site Development Permit |

**Table 143-03A
Supplemental Neighborhood Development Permit or Site Development Permit
Regulations Applicability**

| Type of <i>Development</i> Proposal | Applicable Sections | Required <i>Development</i> Permit/Decision Process |
|---|--|---|
| Affordable housing, in-fill projects, and sustainable buildings projects with deviations through Any <i>capital improvement program project</i> on a Site Containing <i>Historical Resources</i> . [No change in text.] | [No change in text.] | [No change in text.] |
| Site Containing <i>Historical Resources</i> | 143.0201, <u>143.0240</u> , 143.0260, 143.0303, 143.0305, 143.0360, 143.0375, 143.0380 | NDP/Process Two or SDP/Process Four |
| <i>Fences or Retaining Walls</i> Exceeding the Permitted Height through Clairemont Mesa Height Limit Overlay Zone [No change in text.] | [No change in text.] | |

§143.0360 Supplemental Neighborhood Development Permit and Site Development Permit Regulations for Historical Resources

The following regulations apply to Neighborhood Development Permits and Site Development Permits required because of potential impacts to *historical resources* in addition to other indicated supplemental regulations.

- (a) ~~Lot Dimensions.~~ ~~Deviations may be permitted from the minimum lot dimensions required by the applicable base zone if necessary to comply with Chapter 14, Article 3, Division 2 (Historical Resources Regulations)~~ For development on sites containing traditional cultural properties or important archaeological sites, a deviation from one or more of the development regulations of the base zone may be approved to reduce impacts to the resource, subject to the regulations in Section 126.0404.
- (b) ~~Setback Requirements.~~ ~~A deviation of up to 20 percent may be permitted from any required setback if necessary to comply with Chapter 14, Article 3, Division 2 (Historical Resources Regulations), except that a deviation from the front setback in the RS or RE zones shall not be permitted in addition to what is permitted by Section 131.0443(a)(1), when applicable.~~ For sites that receive a relocated designated historical resource through a Site Development Permit in accordance with Sections 126.0505(h), 143.0210, and 143.0250, a deviation from one or more of the development regulations of the base zone may be approved in order to accommodate the designated historical resource on the new site in a manner consistent with the U.S. Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, subject to the regulations in Section 126.0504.

- (c) For development proposing substantial alteration (other than relocation) or demolition of a *designated historical resource*, deviations from the development regulations of the base zone may not be approved under Section 143.0240.

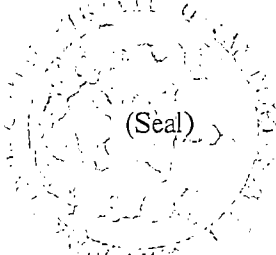
CLN:als
02/15/2018
Or.Dept:Planning
Doc. No.: 1623510_3

Passed by the Council of The City of San Diego on MAR 20 2018, by the following vote:

| Councilmembers | Yeas | Nays | Not Present | Recused |
|-----------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Barbara Bry | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Lorie Zapf | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Chris Ward | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Myrtle Cole | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mark Kersey | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Chris Cate | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Scott Sherman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| David Alvarez | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Georgette Gomez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Date of final passage MAR 22 2018

AUTHENTICATED BY:



(Seal)

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Ginda Brown, Deputy

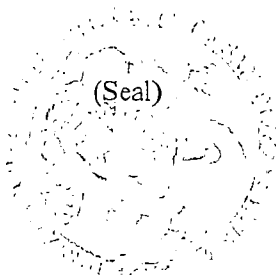
I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAR 06 2018

, and on

MAR 22 2018

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.



(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Ginda Brown, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20920